

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ROBERT G. WYCKOFF, )  
                          )  
Plaintiff,            )  
                          )  
-vs-                    )  
                          Civil Action No. 00-2248  
                          )  
METROPOLITAN LIFE INSURANCE COMPANY )  
and KENNETH F. KACZMAREK,            )  
                          )  
Defendants.            )

AMBROSE, Chief District Judge.

**ORDER OF COURT**

Defendants seek to exclude Exhibits 23, 24, and 25 of Plaintiff's Pre-Trial Statement relating to the accelerated premium plan ("APP") illustrations. (Docket No. 54). Defendants first seek to exclude the Exhibits based on relevance. Specifically, Defendants argue that because the documents were created in the 1980s, the documents are irrelevant to the events occurring in 1991 and 1994. I disagree. Defendants' concern in this regard goes to weight, not admissibility and can be dealt with on cross-examination. Moreover, the documents are relevant to show a business pattern and practice regarding vanishing premiums, an issue in this case. See, Fed. R. E. 406. Consequently, I will not exclude them on this basis.

Defendants next argue that the documents should be excluded because they are unfairly prejudicial to Defendants. After engaging in a thorough Rule 403 analysis, I disagree. I do not find that probative value to be substantially outweighed

by the danger of unfair prejudice.

THEREFORE, this **24<sup>th</sup>** day of October, 2006, upon consideration of Defendants' Motion to Exclude Plaintiff's Exhibit Nos. 23, 24, and 25, Approval Process of Accelerated Premium Plan - Related Documents (Docket No. 54) and the related submissions, it is ordered that said Motion is denied.

BY THE COURT:

/S/ Donetta W. Ambrose

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Donetta W. Ambrose,  
Chief U.S. District Judge

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